

HEALTH SERVICES AND DEVELOPMENT AGENCY MINUTES

FEBRUARY 28, 2007

AGENCY MEMBERS PRESENT

Koella, Carl, III, Chairman
Caldwell, Gene, M.D., Vice Chair
Atchley, Bryan
Gaither, Keith, designee for the TennCare Director
Handorf, Charles, M.D.
Morris, John, designee for the Commissioner of Commerce and Insurance
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Jones, Clark
Lammert, Gregory

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant III
Brogden, Reid, General Counsel
Craighead, Alecia, Statistical Analyst III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Grimm, Jeff, Health Planner III
Wells, Phil, Health Planner III

GUESTS PRESENT

Algood, Richard, SHZ
Arnold, Sonya, King College
Baker, E. Graham, Esq., Weeks, Anderson, & Baker
Benton, Tony, Mountain States Health Alliance
Berson, Charles, Diamond Health Care
Brent, Michael D., Esq., Boulton, Cummings, Conners & Berry
Brown, Dere, NHC
Cagle, Garner, Nashville Rehabilitation Hospital
Carmack, Jaime, BCCB
Carobene, Joe, Deputy Commissioner, Department of Mental Health and Developmental Disabilities
Cassler, John, AdamsPlace, NHC
Chadwell, Liz, HHCOWT
Cherry, Vince
Cook, Phillip, President, PSIs Mid-America Division
Corritore, Danell, Department of Health
Dajon, Sharon, Diamond Health Care
Davidson, Steve, CDO, Nashville Rehabilitation Hospital
Day, Edwin, Consultant
Duffy, Catherine, CNO, Centennial Medical Center
Duncan, Bruce, NHC
Elrod, Dan H., Esq., Miller & Martin
Fields, Talbot, Vice President of Sales, Caris Healthcare
Foss, Coleman, Dyersburg Regional Medical Center
Fowler, Michelle, Stones River Hospital
Gardner, Andy, Hospice of West Tennessee

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Gooch, Warren, Esq., Kramer, Rayson
 Goolsby, Eunice, DON, Best Nurses, Inc.
 Gregory, Luke, CEO, Blakeford at Green Hills
 Groce, David, CFO, Lincoln County Health System
 Groce, Vicky, CNO, Lincoln County Health System
 Guyton, Nancy, Medical Center Home Health
 Hamlet, Mark, Jr., Administrator/President, Loving Arms Nurses Care
 Hancamp, Ron, Parthenon Pavilion
 Heath, Susan, CEO, Vanderbilt Stallworth Rehabilitation Hospital
 Herron, Thomas, CEO, Centennial Medical Center
 Hinson, Mike, Tennessee Quality Homecare
 Hinson, Neal, Hinson, Miller, Kickarillo, Architects
 Jackson, Marla, TMHA
 Johnson, Wanda, Stones River Hospital
 Johnstone, Lois, Administrator, Blakeford at Green Hills
 Jones, Lois, Blakeford at Green Hills
 Kendrick, Gary, CEO, Lincoln County Health System
 Lake, Vicki, Jackson-Madison County General Hospital
 Lee, Kevin, President, SeniorHealth
 Looney, Kim Harvey, Esq., Waller, Lansden, Dortch & Davis, LLP
 Lothridge, Pamela, Skyline Medical Center
 Luchessi, Jane, Memorial Health Care System
 Maxwell, David, University Medical Center
 Maynard, Rhonda, CFO, University Medical Center
 McDearman, Scott, Esq., Grant, Konvalinka & Harrison, P.C.
 McNutt, Cheneel, Owner, Loving Arms Nurses Care/Mobil IntraVenus Nurses
 McNutt, Patricia, Administrator/President, Loving Arms Nurses Care
 Mockabee, Irene, former President of Rutherford NAMI.
 Morrical, Mark, Mountain States Health Alliance
 Morris, James, M.D., Univeristy Medical Center
 Morris, Norma, University Medical Center
 Owens, Pamela Rudd, Director of Clinical Services, NHC HomeCare
 Ozburn, Tom, Summit Medical Center
 Parrish, Jeff, Tennessee Health Management
 Peterson, Anita, CEO, Centennial Parthenon Medical Center
 Phippert, John, Mountain States Health Alliance
 Pogson, Suzanne, Nurse Manager, Methodist Alliance
 Poling, Becki, Department of Mental Health and Developmental Disabilities
 Richards, Jessica, THM
 Richardson, Leslie, Vanderbilt Stallworth Rehabilitation Hospital
 Richardson, Ryan
 Richardson, Scott, Esq., Boulton, Cummings, Conners & Berry
 Rogers, Allison, Mountain States Health Alliance
 Rosten, Janet, Baptist Trinity Home Care & Hospice
 Sanders, Brenda, University Medical Center
 Sims, Michelle, Office Manager, The Center for Assisted Reproductive Technologies
 Smithgall, Lisa, Mountain States Health Alliance
 Slingerland, Micki, COO, Centennial Medical Center
 Stone, Whitney, Adams & Reese
 Summers, David, CFO, Centennial Medical Center
 Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC
 Thompson, Ann R., Department of Health, Health Care Facilities
 Thomas, Murphy, M.D.
 Trauger, Byron, Esq., Trauger & Tuke
 Turek, Lori, President of Rutherford NAMI
 Van Blarcom, Loraine
 Vasquez, Jamie, MD, Medical Director, The Center for Assisted Reproductive Technologies
 Vasquez, Nancy, Manager, The Center for Assisted Reproductive Technologies
 Vose, Jeffrey D., Vice President, Senior Health
 Waddey, Melissa
 Wellborn, John, Development Support Group
 West, Rita, Amedisys, Inc.
 West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz
 Williams, Regenna, President, Best Nurses, Inc.
 Witzky, Touby, CEO, Nashville Rehabilitation Hospital
 Wright, Patty, Director of Behavioral Health Services, Lincoln Medical Center

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Chairman Koella called the meeting to order at 8:30 a.m. in the 1st Floor Conference Room of the Davy Crockett Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, stated that the Nursing Home regulatory update will be rescheduled to another date. The Audit Committee will meet at the conclusion of the Agency meeting. The March meeting will be at the Gaylord Entertainment Center.

CONSENT CALENDAR APPLICATION

Ms. Hill summarized the following Consent Calendar application:

The Center for Assisted Reproductive Technologies (CART) - (Nashville, Davidson County) - Project No. CN0612-101

The relocation of a currently licensed ambulatory surgical treatment center (ASTC) restricted to fertility procedures with two (2) specialized operating rooms from 2011 Murphy Avenue, Suite 205 to 2410 Patterson Avenue, Suite 400, Nashville, TN 37203, a distance of less than seven blocks. This is a private practice-based infertility treatment facility. The relocation will not change its licensure or operating room complement or scope of service. Project Cost \$1,948,595.00.

John L. Wellborn, Consultant, representing the applicant, was present to address the Agency. Present in support of the project were: Dr. Jaime Vasquez, Medical Director; Nancy Vasquez, Manager; and Michelle Sims, Office Manager.

Ms. Hill recommended approval based on: 1) Need-The need to relocate the private practice-based facility limited to fertility-related procedures has been established because the applicant's lease will not be renewed; 2) Economic Feasibility-The project is economically feasible through a bank loan. 1.2 million of the 1.9 million project cost is the value of the existing equipment and the costs for the first term of the lease. Dr. Vasquez's medical practice is able to subsidize any losses the ASTC incurs. This relocation will not impose any additional costs on patients; and 3) Orderly development – The project is orderly. This is an existing single specialty ASTC that is relocating approximately 7 blocks from its current location from a Baptist Hospital office building to the campus of Centennial Medical Center. The relocation is not expected to have any adverse effect on patients since it can be accomplished in approximately one week's time.

Ms. Troy moved for approval of the project based on the three criteria being met as described by Ms. Hill. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Morris, Koella

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Scott County Hospital - (Oneida, Scott County) - Project No. CN0608-063

The replacement and relocation of an existing hospital from 18797 Alberta Street, Oneida (Scott County) to not yet assigned address on Cook Avenue, Oneida (Scott County), TN. The licensed beds will decrease by 39 from 99 to 60 (which include ten (10) swing beds). Project Cost \$34,080,645.00.

WITHDRAWN

SeniorHealth of Rutherford, LLC - (Murfreesboro, Rutherford County) - Project No. CN0610-089

The construction and establishment of a sixty (60)-bed general hospital providing medical detoxification, psychiatric and rehabilitation services. The distribution of beds will be as follows: Medical detoxification (9 beds); psychiatric-adult and geriatric (24 beds), and medical rehab services (27 beds). This facility will serve Rutherford and Bedford counties. Project Cost \$29,893,000.00.

William West, Esq., representing the applicant, addressed the Agency. Kevin Lee, President, spoke on behalf of the project. Speaking in support were: Loraine Van Blarcom; Lori Turek, President of Rutherford NAMI; Irene Mockabee, former President of Rutherford NAMI. Present in support were: Jeffrey D. Vosel, Vice President, Senior Health and Dr. Murphy Thomas.

Speaking in opposition of the project were: Byron Trauger, Esq., representing Vanderbilt Stallworth Rehabilitation Hospital; Jerry Taylor, Esq., representing Centennial Parthenon, Skyline-Madison Medical Center f/k/a Tennessee Christian Medical Center, and Summit Medical Center; Graham Baker, Esq., representing DeKalb County Community Hospital and Stones River Hospital; Susan Heath, CEO, Vanderbilt Stallworth Rehabilitation Hospital; Michelle Fowler, Stones River Hospital; and Anita Peterson, CEO, Centennial Parthenon Medical Center. Present in opposition were: Dan Elrod, Esq., representing, NHC; Bruce Duncan, VP, NHC; Michael Brent, Esq. representing, Nashville Rehabilitation Hospital; Touby Witzky, CEO, Nashville Rehabilitation Hospital; Steve Davidson, CDO, Nashville Rehabilitation Hospital; and Phillip Cook, President, PSI Mid-America Division

Mr. West and Mr. Lee rebutted the opposition.

Joe Carobene, Deputy Commissioner, Department of Mental Health and Developmental Disabilities, addressed the Agency.

Mr. Trauger summated for the opposition.

Mr. West summated for the applicant.

Dr. Caldwell moved for approval of the project based on: 1) Need – The Department of Mental Health and Developmental Disabilities states there are no psychiatric beds in the area, there is a need for the beds. NAMI supports the application and is well recognized on being one of the authorities in mental health issues. This hospital will help the mental healthcare; 2) Economic Feasibility – The project is economically feasible with cash reserves and commercial loan being available; and 3) The project does contribute to the orderly development of adequate and effective health care by providing local access to mental health, access to involuntary admissions, access to detoxification will definitely increase the overall orderly development for healthcare in Rutherford County. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Morris, Koella

NAY: None

Ms. Troy and Dr. Handorf recused.

Best Nurses, Inc. - (Memphis, Shelby County) - Project No. CN0609-067

The establishment of a home care organization and initiation of home health and hospice care services located at 6061 Apple Tree Drive, Suite 2, Memphis, TN 38115. The service area includes the following counties: Shelby, Fayette, Hardeman, McNairy, Hardin, Tipton, Haywood, Madison, Henderson, Lauderdale, Crockett, Dyer, Obion, Gibson, Carroll, Decatur, Henry, Lake, Chester, Weakley and Benton. Project Cost \$7,250.00.

Regenna Williams, President, representing the applicant, addressed the Agency and Eunice Goolsby, DON, spoke on behalf of the project.

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Speaking in opposition of the project were: Dan Elrod, Esq., representing, Baptist Memorial Hospital, Medical Center Home Health, Hospice of West Tennessee, Caris Hospice & other provider representatives; Scott McDearman, Esq., representing CareAll; William West, Esq., representing Amedisys Home Health; and Pamela Rudd Owens, Director of Clinical Services, NHC HomeCare. Present in opposition were: Byron Trauger, Esq., representing Alliance Health Services; Mike Hinson, Tennessee Quality Homecare; Talbot Fields, Vice President of Sales, Caris Healthcare; Andy Gardner, Hospice of West Tennessee; and Nancy Guyton, Medical Center Home Health Care Services.

Ms. Williams and Ms. Goolsby rebutted.

Mr. Elrod summated for opposition.

Ms. Goolsby and Ms. Williams summated on behalf of the project.

Dr. Caldwell moved for denial of the project based on: 1) Need – Figures from the Department of Health show there is a surplus of home health and hospice services in the area, therefore there is no demonstration of need. Mr. Atchley seconded the motion. The motion CARRIED [6-0-0]. **DENIED**

AYE: Gaither, Weaver, Caldwell, Atchley, Morris, Koella

NAY: None

Ms. Troy and Dr. Handorf recused.

Loving Arms Nurses Care/Mobil IntraVenus Nurses-(Memphis, Shelby County)-Project No. CN0610-086

The establishment and initiation of home health services located at 4273 American Way, Suite 6, Memphis, TN 38118. The service area includes the following counties: Shelby, Fayette, Hardeman, McNairy, Lauderdale, Decatur, Crockett, Dyer, Obion, Gibson, Carroll, Henry, Lake, Chester, Weakley, Benton, Tipton, Haywood, Madison, and Henderson. Project Cost \$60,415.00.

Patricia McNutt, Administrator/President, addressed the Agency. Cheneel McNutt, Owner, and Mark Hamlet, Jr., Administrator/President spoke on behalf of the project.

Speaking in opposition were: Byron Trauger, Esq., representing Alliance Health Services; Suzanne Pogson, Nurse Manager, Methodist Alliance; and Dan Elrod, Esq., representing, Baptist Memorial Hospital, Medical Center Home Health, Hospice of West TN, Caris Hospice & provder representatives.

Present in opposition were: Scott McDearman, Esq., representing, CareAll; Pamela Rudd Owens, Director of Clinical Services, NHC HomeCare; and Mike Hinson, Tennessee Quality Homecare.

Patricia McNutt, Cheneel McNutt and Mark Hamlet rebutted.

Mr. Trauger and Mr. Elrod summated for the opposition.

Patricia McNutt, Cheneel McNutt and Mark Hamlet summated on behalf of the project.

Mr. Atchley moved for denial of the project based on: 1) Need – The figures from the Department of Health show a surplus of patients. The need is not demonstrated; and 2) Economic Feasibility – The economical feasibility is in question because their figures are totally out of line with what the market place is officially. Dr. Caldwell seconded the motion. The motion CARRIED [6-0-0]. **DENIED**

AYE: Gaither, Weaver, Caldwell, Atchley, Morris, Koella

NAY: None

Lincoln Medical Center - (Fayetteville, Lincoln County) - Project No. CN0611-091

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The establishment of a secure ten (10)-bed older adult/geropsychiatric unit of Lincoln Medical Center and the initiation of psychiatric services to be physically located in 5,460 square feet of renovated space at Donalson Care Center and Assisted Living Center (both are part of Lincoln County Health System). Donalson Care Center's beds will not be reduced. The additional ten (10) adult psychiatric beds will increase Lincoln Medical Center's beds from forty-nine (49) to fifty-nine (59) beds. Project Cost \$499,634.00.

Gary Kendrick, CEO, addressed the Agency on behalf of the project. Present on behalf of the project were: Anne Bankston, Board of Trustees, Lincoln County Health System; Chuck Berson, Diamond Health Care; Sharon Dajon, Diamond Health Care; Neal Hinson, Hinson, Miller, Kickarillo, Architects; Patty Wright, Director of Behavioral Health Services, Lincoln Medical Center; David Groce, CFO, Lincoln County Health System; and Vicky Groce, CNO, Lincoln County Health System

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established by the documentation presented and affirmed from the Department of Mental Health's report; 2) Economic Feasibility – The project is economically feasible from cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by providing additional needed services to the citizens served by Lincoln Medical Center in Lincoln and the surrounding counties. Ms. Troy seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Morris, Koella
NAY: None

Dr. Caldwell and Dr. Handorf recused.

OTHER BUSINESS (Taken out of Order)

Dyersburg Regional Medical Center - (Dyersburg, Dyer County) - Project No. CN0509-083

Mediation discussion.

Ms. Troy moved for approval of the addition of cardiac catheterization services. There is new evidence presented that address the issues of patients' safety and patient volume. The additional information allows for a positive decision. Mr. Morris seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Troy, Morris, Koella
NAY: None

Returned to Order

University Medical Center - (Lebanon, Wilson County) - Project No. CN0611-092

The new construction of a four story tower containing approximately 77,000 square feet. The tower will include sixty (60) new private patient rooms, shell space for future use, outpatient rehab space, a new entry/drop-off area, a lower entrance level lobby, and support spaces. Twenty (20) existing patient rooms will be renovated. The 170 licensed bed complement will not change as a result of this project. Project Cost \$26,439,600.00.

Dan Elrod, Esq., representing the applicant, addressed the Agency. James W. Morris, M.D., and Vince Cherry spoke on behalf of the project. Present in support were: Mike Morrical, Rhonda Maynard, CFO, and Edwin W. Day, Consultant.

Ms. Troy moved for approval of the project based on: 1) Need – There is a need; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Morris, Koella
NAY: None

Centennial Medical Center - (Nashville, Davidson County) - Project No. CN0611-095

The conversion of twenty-five (25) acute inpatient rehabilitation beds to twenty-five (25) medical-surgical beds at the hospital's main campus at 2300 Patterson Street, Nashville, TN 37203. This project will not change the 607 licensed bed complement of the hospital. Project Cost \$645,700.00.

Jerry Taylor, Esq., representing the applicant, addressed the Agency. Catherine Duffy, CNO and Micki Slingerland, COO, spoke on behalf of the project.

Present in support of the project were: Thomas Herron, CEO; David Summers, CFO; and John Wellborn, Consultant.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established by the current occupancy rates of the existing medical/surgical beds; 2) Economic Feasibility – The project is economically feasible from cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by making more medical/surgical facilities available for the community. Dr. Caldwell seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Morris, Koella

NAY: None

Mr. Morris left meeting.

GENERAL COUNSEL'S REPORT

Woodcrest at Blakeford at Green Hills - (Nashville, Davidson County) - Project No. CN0304-021A

Request for an extension of the expiration date by seven (7) months from May 1, 2007 to January 1, 2008 due to unanticipated complications in constructing the project. This project was approved at the August 27, 2003 meeting for the addition of thirty (30) level II, Medicare-only skilled nursing facility beds for a total of seventy (70) licensed beds in an existing continuing care retirement center. On July 27, 2005 the HSDA approved a nineteen (19) month extension of the expiration date from October 1, 2005 to May 1, 2007 and project cost increase of \$381,017.00 from \$1,499,124.00 to \$1,881,017.00.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Present on behalf of the request were: Luke Gregory, Lois Johnstone, Administrator; Walter Mathews, R.C. Mathews Contractor; and John Wellborn, Consultant.

Ms. Troy moved for approval of the extension of the expiration date to May 1, 2008 and the project cost increase as requested. Mr. Atchley seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Koella

NAY: None

Johnson City Medical Center - (Johnson City, Washington County) - Project No. CN0508-077A

Request for modifications of the certificate of need to change the location of the facility from the top of the existing Center for Women's Health to space in front of the existing structure; increase the size by 26,102 square feet from 65,700 square feet to 91,802 square feet; increase the cost by \$4,059,032.00 from \$31,276,500.00 to \$35,335,532.00; and the extension of the expiration date by six (6) months from January 1, 2009 to July 1, 2009. This project was approved at the November 16, 2005 meeting for the construction of a thirty-seven (37) bed dedicated children's facility attached to the hospital's existing thirty-two (32) bed Neonatal Intensive Care Unit (NICU), including construction of two (2) dedicated surgical suites, pediatric emergency room, the replacement of thirty (30) pediatric and pediatric intensive care unit acute care beds and the addition of seven (7) NICU beds. This project increased the bed complement from 578 to 585.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Lisa Smithgall spoke on behalf of the project. Present in support were: Tony Benton, and Allison Rogers.

Dr. Caldwell moved for approval of the request for the increase in cost to \$35,335,532.00 and the extension of the expiration date to July 1, 2009. Ms. Troy seconded the motion. The motion CARRIED [7-0-0].
APPROVED

AYE: Gaither, Weaver, Handorf, Caldwell, Atchley, Troy, Koella
NAY: None

Senate and House Bills

Mr. Brogden gave a brief overview of legislative activity relevant to the Certificate of Need program, including House Bill 1268 filed by Representative Lynn to repeal the CON program and abolish the Health Services and Development Agency.

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the January 24, 2007, meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab